

OFFICE OF THE CLERK

MARCIA M. WALDRON
CLERK

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA 19106-1790

TELEPHONE
215-597-2995

September 27, 2006

Peter T. Dalleo, Clerk
United States District Court
J. Caleb Boggs Federal Building
Lockbox 18
844 King Street
Wilmington, DE 19801-3570

Re: Cardone v. Attorney General of the State of Delaware, et al
D. Del. No. 06-cv-0127-KAJ

Dear Mr. Dalleo:

Pursuant to Rule 4(d), Federal Rules of Appellate Procedure, and Rule 3.4, Third Circuit Local Appellate Rules, we are forwarding the attached letter to be construed as a notice of appeal along with a blank certificate of appealability form which was filed with this office in error. See Rule 3(a)(1), Federal Rules of Appellate Procedure and Rule 3.4, Third Circuit Local Appellate Rules. **The notice was postmarked September 26, 2006 and should be docketed as of that date.**

These documents are being forwarded solely to protect the litigant's right to appeal as required by the Federal Rules of Appellate Procedure and Rule 3.4, Third Circuit Local Appellate Rules. Upon receipt of these documents, kindly process them according to your Court's normal procedures. If your office has already received the same documents, please disregard the enclosed copies to prevent duplication.

Pursuant to Rule 3(a)(1), Federal Rules of Appellate Procedure, a notice of appeal must be filed with the Clerk of the District Court. This Court may not act on an appeal until the notice has been docketed in the District Court and certified to this Court by the District Court Clerk.

Thank you for your assistance in this matter.

Very truly yours,

Marcia M. Waldron, Clerk

By: /s/ Bradford A. Baldus
Bradford A. Baldus
Senior Legal Advisor to the Clerk

Enclosure

cc: Charles F. Cardone, SBI #098159 (w/out enclosure)

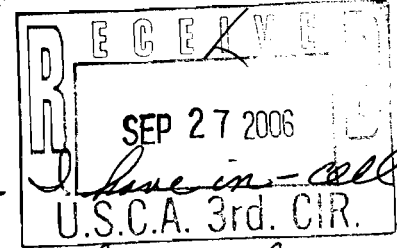
Charles F. Cardone
SBI #098159
Delaware Correctional Center
1182 Paddock Road
Smyrna, DE 19977

TO: Office of the Clerk

RE: 06-127-KAJ - Dismissal of petition for a writ of habeas corpus by Delaware District Court Judge Kent A Tordon...

06-2358/06-3338

Dear Sir or Madame:

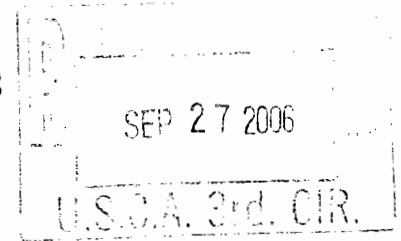


My above petition has been dismissed. I have in-cell law library access and wrote the library asking for a form so I may appeal Judge Tordon's decision to the 3rd Circuit Court of Appeals for consideration. This prison's law library sent me the enclosed form w/ no explanation or instructions. My question to the Clerk of 3rd Circuit is: Is this enclosed application appropriate and acceptable? If it is, please return... if it is not appropriate and acceptable, please forward a correct application. I am pro se... I consider this letter a request to the 3rd Circuit as to operative procedures, not a legal request. - Thank you for your time and attention.

Charles F. Cardone
SBIth 098159-DCC
Bldg (21) AL5
1181 Paddock Road
Smyrna, DE 19977

- On this date, I have handed this letter to a DCC guard to place in our U.S. Mail system...

UNITED STATES COURT OF APPEALS
FOR THE _____ CIRCUIT



Case No. _____

Plaintiff - Appellee,

v.

Application for Certificate of
Appealability

Defendant - Appellant.

NOTICE AND INSTRUCTIONS

Your application for a certificate of appealability will be evaluated by the court using these standards:

Certificate of Appealability. There must be a substantial showing of the denial of a constitutional right by demonstrating that the issues raised are debatable among jurists, that a court could resolve the issues differently, or that the questions deserve further proceedings. 28 U.S.C. § 2253(c); Lennox v. Evans, 87 F.3d 431 (10th Cir. 1996).

FAILURE TO SET FORTH FACTS AND ARGUMENTS SHOWING THAT YOU MEET THE APPROPRIATE STANDARD WILL SUBJECT YOUR APPEAL TO DISMISSAL WITHOUT FURTHER NOTICE.

You may use this form to furnish a statement of the case, the issues you intend to raise on appeal, and the reasons your appeal meets the applicable standards. The form is intended to guide you in meeting the above standards. If you need more space to answer, additional pages may be attached. The information you furnish, together with the full record of the proceedings in the district court, will be the basis for this court's decision. You should bear in mind that an appeal is not a retrial, but rather a **review** of the district court's judgment and record of proceedings.

APPLICATION

1. Statement of the Case. (This should be a brief summary of the proceedings in the district court.)

2. Issues to be Raised on Appeal. (New issues raised for the first time on appeal generally will not be considered.)

3. Summary of Your Argument Showing that Your Appeal Meets the Standards Stated on Page 1.

8. What action do you want this court to take in your case?

9. Were you required to seek and exhaust administrative remedies prior to filing your claim in district court? If yes, what steps did you take to exhaust those remedies?

Date

Signature

CERTIFICATE OF SERVICE

I hereby certify that on _____ I mailed a copy of
(date)
the Certificate of Appealability:

to _____, at _____

_____, the last known address,
by way of United States mail or courier.

Date

Signature

[illegible]

Doornia